

Ex. 6

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND
COMPOUNDING PHARMACY, INC. MDL No. 2419
PRODUCTS LIABILITY LITIGATION Master Docket
1:13-md-02419-RWZ

VIDEOTAPED DEPOSITION DUCES TECUM
OF RITU T. BHAMBHANI, M.D.

Wednesday, February 10, 2016

Reported by: Lori J. Goodin, RPR, CLR, CRR,
Realtime Systems Administrator
Assignment No. 26236

NEW ENGLAND COMPOUNDING PHARMACY INC. PRODUCTS LIABILITY
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<p style="text-align: right;">Page 14</p> <p>1 for the record, the request is subject to an</p> <p>2 objection that was articulated in the</p> <p>3 response, so --</p> <p>4 MR. ROTH: Understood. And, you</p> <p>5 know, fair enough. I'm just trying to get</p> <p>6 the mechanics together of who gathered what</p> <p>7 information.</p> <p>8 THE WITNESS: Besides myself, I</p> <p>9 might have asked my nurse, Andrew Vickers, to</p> <p>10 help get documents. I might have asked the</p> <p>11 office manager, Christina, to help. So,</p> <p>12 probably the main ones I can think of.</p> <p>13 BY MR. ROTH:</p> <p>14 Q. Okay. And after providing, and your</p> <p>15 counsel has pointed out that the responses to</p> <p>16 these request for production of documents were</p> <p>17 served in July of 2015, have you continued to</p> <p>18 look for information related to any request for</p> <p>19 information about use of NECC products or your</p> <p>20 patients who may have received NECC products?</p> <p>21 MS. STEINER: Let me just object to</p> <p>22 the question. I'm not -- it is a lot broader</p> <p>23 than this particular request.</p> <p>24 BY MR. ROTH:</p> <p>25 Q. I am, it is. I was using that</p>	<p style="text-align: right;">Page 16</p> <p>1 Procedure Manual.</p> <p>2 So, first of all, were you involved</p> <p>3 in looking for your Policy and Procedure Manual?</p> <p>4 MS. STEINER: And let me just state</p> <p>5 for the record, between these requests that</p> <p>6 are Exhibits 1051, 1052, and 1053, there has</p> <p>7 been the additional notice of this deposition</p> <p>8 which was noted as a 30(b)(6) deposition with</p> <p>9 documents requested, some of which were not</p> <p>10 subject to the previous requests for</p> <p>11 production.</p> <p>12 MR. ROTH: Okay.</p> <p>13 MS. STEINER: So, additional</p> <p>14 documents were produced in anticipation of</p> <p>15 today, as opposed to producing them today.</p> <p>16 BY MR. ROTH:</p> <p>17 Q. All right. So, let me ask</p> <p>18 specifically about the Policy and Procedure</p> <p>19 Manual. That was produced as part of the</p> <p>20 production response to the 1052 and 1053, and</p> <p>21 then we were recently provided with two policies</p> <p>22 that were omitted from the first production and</p> <p>23 then a Policy and Procedure Manual that was to be</p> <p>24 in place, or that was reported to have been in</p> <p>25 place at, in 2012.</p>
<p style="text-align: right;">Page 15</p> <p>1 request as an example. I, rather than go through</p> <p>2 each and every request to see who gathered it.</p> <p>3 My understanding was generally you would have</p> <p>4 asked Andy Vickers, Christina, to assist you in</p> <p>5 gathering information that you were requested for</p> <p>6 in this case?</p> <p>7 A. Generally, yes.</p> <p>8 Q. Yes. And sitting here today you</p> <p>9 don't have a specific recollection of who did</p> <p>10 what in terms of what request, right?</p> <p>11 A. Yes.</p> <p>12 Q. I mean that's what my understanding</p> <p>13 was, I'm sorry.</p> <p>14 A. Yes.</p> <p>15 Q. So, my question is whether or not</p> <p>16 you have continued to look for other information.</p> <p>17 A. Within my records that I have?</p> <p>18 Q. Yes, yes.</p> <p>19 A. The only thing I can think of is,</p> <p>20 unless someone specifically has asked me for</p> <p>21 something.</p> <p>22 Q. Okay. One of the reasons why I'm</p> <p>23 asking the question is, we were recently provided</p> <p>24 with some documents by your counsel. Two policy</p> <p>25 and procedures, and then an entire Policy and</p>	<p style="text-align: right;">Page 17</p> <p>1 A. I will try to explain --</p> <p>2 Q. That will be great.</p> <p>3 A. -- how I think that might have</p> <p>4 happened.</p> <p>5 Q. Thank you.</p> <p>6 A. I can't say 100 percent.</p> <p>7 When the policies procedures were</p> <p>8 requested, because of the size of the document</p> <p>9 and the fact that it is straightforward there, it</p> <p>10 is on our computer and the print format, that was</p> <p>11 probably something that I requested Christina, my</p> <p>12 office manager to get through to Greg and</p> <p>13 Catherine when I was asked for it.</p> <p>14 And, she provided what was current</p> <p>15 at the time the request was made.</p> <p>16 At some point, I was specifically</p> <p>17 asked is this what was effective in 2012, because</p> <p>18 I'm not sure what you have, but if Christina did,</p> <p>19 she probably sent you whatever she has access to</p> <p>20 at this time, which is what is current.</p> <p>21 So, I then, myself, went into the</p> <p>22 computer and I said well I can send you what I</p> <p>23 have saved as the 20, well, the revised 2011</p> <p>24 which is what would have been effective in</p> <p>25 2012 --</p>

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<p style="text-align: right;">Page 38</p> <p>1 Q. Okay. And at the outset when</p> <p>2 counsel introduced themselves they mentioned a</p> <p>3 couple of different entities, one of them was</p> <p>4 Ritu Bhambhani?</p> <p>5 A. LLC.</p> <p>6 Q. LLC. What is that?</p> <p>7 A. That is the name of the practice.</p> <p>8 Q. Okay. And how is that different</p> <p>9 from Box Hill Surgery Center.</p> <p>10 A. Box Hill Surgery Center is the</p> <p>11 free-standing ambulatory surgery center entity.</p> <p>12 Q. Okay. All right. And there was a</p> <p>13 third corporation mentioned that I didn't get the</p> <p>14 name of. Am I wrong about that?</p> <p>15 MS. STEINER: I believe what I said</p> <p>16 is that I represent Ritu Bhambhani, M.D., the</p> <p>17 individual, Ritu Bhambhani M.D., LLC, the</p> <p>18 private practice entity.</p> <p>19 MR. ROTH: Right.</p> <p>20 MS. STEINER: And Box Hill Surgery</p> <p>21 Center, the free-standing ambulatory care</p> <p>22 center entity.</p> <p>23 BY MR. ROTH:</p> <p>24 Q. Got it. Now, when you would see</p> <p>25 patients at Harford, or you would inject patients</p>	<p style="text-align: right;">Page 40</p> <p>1 not just me but Medicare considers it the surgery</p> <p>2 side. So if I had seen them in my office at</p> <p>3 100 Walter Ward Boulevard, and then the procedure</p> <p>4 was done at Harford County Ambulatory Surgical</p> <p>5 Center, the note from the office would be in my</p> <p>6 record, but the procedure note for the procedure</p> <p>7 done at Harford County Ambulatory Surgical</p> <p>8 Center, they would have that.</p> <p>9 Q. All right. And would a copy of a</p> <p>10 procedure that you do, a record from a procedure</p> <p>11 that you do, end up in Dr. Bhambhani's records?</p> <p>12 MS. STEINER: Just to be clear are</p> <p>13 you talking about the procedure note itself</p> <p>14 or any other attendant notes that may have</p> <p>15 been made regarding preoperative care or</p> <p>16 postoperative care?</p> <p>17 BY MR. ROTH:</p> <p>18 Q. Well, I guess what I'm trying to</p> <p>19 find out, and that is a good question, thank you,</p> <p>20 is what I heard you say is a patient comes to see</p> <p>21 you that you do an evaluation and that ends up in</p> <p>22 the records of Dr. Bhambhani.</p> <p>23 A. Yes.</p> <p>24 Q. The procedure is done in a surgical</p> <p>25 center, whether it is Box Hill or Harford, and</p>
<p style="text-align: right;">Page 39</p> <p>1 at Harford County, I presume there were medical</p> <p>2 records that were kept. You had to document your</p> <p>3 treatment, correct? You have to answer?</p> <p>4 A. Yes, sorry. Yes.</p> <p>5 Q. I know we are on videotape and you</p> <p>6 have never done this, but the court reporter has</p> <p>7 to take down answers.</p> <p>8 Where were those records maintained?</p> <p>9 A. So, their record for my evaluation</p> <p>10 would be in my records.</p> <p>11 Their record for the actual</p> <p>12 procedure that was done there, which I used to</p> <p>13 usually dictate, would be in their records.</p> <p>14 Q. Okay. And when you say my records,</p> <p>15 what does that mean?</p> <p>16 A. So, for example, if I saw a patient</p> <p>17 in my office for an initial evaluation.</p> <p>18 Q. And your office being in Box Hill?</p> <p>19 A. So, Box Hill technically would be</p> <p>20 the surgery center, so, there is the 100 Walter</p> <p>21 Ward Boulevard has Box Hill Surgery Center in it</p> <p>22 and my office in it.</p> <p>23 Q. Okay.</p> <p>24 A. So, one section of it is what I</p> <p>25 consider the office side, and the other section,</p>	<p style="text-align: right;">Page 41</p> <p>1 what I want to know is whether or not the records</p> <p>2 of treatment related to a procedure, whether it</p> <p>3 is pre-op or post-op or the procedure itself, end</p> <p>4 up in the records of Dr. Bhambhani.</p> <p>5 A. Not necessarily, unless we</p> <p>6 requested it.</p> <p>7 Q. Okay.</p> <p>8 A. Because those records are generated</p> <p>9 at the location.</p> <p>10 Like, you mentioned the pre-op,</p> <p>11 post-op nursing documentation, what have you, or</p> <p>12 even my procedure note that I would have</p> <p>13 dictated.</p> <p>14 When I would usually see my part of</p> <p>15 the dictation is, if they handed them to me to</p> <p>16 sign those off, before they would file them.</p> <p>17 Q. Uh-huh.</p> <p>18 A. So they wouldn't necessarily end up</p> <p>19 in my records, unless somebody would, say I saw</p> <p>20 that patient again down the road, and I wanted to</p> <p>21 see okay, let me get the procedure note and the</p> <p>22 staff would call Harford County Ambulatory</p> <p>23 Surgical Center or Upper Chesapeake for that</p> <p>24 matter and request that procedure note.</p> <p>25 Q. Okay. And there are a number of</p>



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<p style="text-align: right;">Page 42</p> <p>1 people who received care from doctor, from you, 2 that bring us here today. I'm going to read you 3 the names of some of them and then I will ask you 4 a question. But, it is Teresa Davis, Belinda 5 Dreisch, D-R-E-I-S-C-H, Angela Farthing, Bahman, 6 B-A-H-M-A-N Kashi, K-A-S-H-I, John Millhausen, 7 M-I-L-L-H-A-U-S-E-N, Linda Torbeck, Edna Young, 8 and Brenda Rozek. 9 Did any of the procedures, the 10 injections performed on these folks I just named, 11 take place in any facility other than Box Hill? 12 A. In 2012 no. Prior to 2012, I'm not 13 sure I would have to look at the records. 14 Q. Okay. When you became the Director 15 of Harford County Ambulatory Surgery Center on 16 the pain management side, did you have any 17 administrative responsibilities for the center? 18 A. The best that I remember was doing 19 peer reviewed, peer reviewed, because there were 20 other physicians who were doing pain management 21 there. I have always done peer review both for 22 anesthesia and pain management when I was there. 23 Other than that, I do not remember. 24 Q. Did you have any responsibility for 25 acquiring the medications or anesthetic agents at</p>	<p style="text-align: right;">Page 44</p> <p>1 A. No, I do not. 2 Q. Okay. Between 2008 and the end of 3 2012, did Box Hill, was there more than one 4 location for Box Hill Surgery Center? 5 A. No, there wasn't. 6 Q. Okay. In order to become either 7 licensed -- well, I'm sorry. Other than the 8 owner, did you have a title at Box Hill Surgery 9 Center? Were you the Medical Director? 10 A. By default, I guess, yes. 11 Q. Okay. What was the responsibility 12 of the Medical Director? 13 A. I am pretty sure I have a policy on 14 that, so I don't want to say the wrong thing. 15 Q. Okay. 16 A. I would like to reference that and 17 go with it. 18 Q. Okay. So, let me show you Bates 19 Number 328. 20 MS. STEINER: Okay, so counsel, this 21 is the organizational chart for Box Hill 22 Surgery Center from the production of what we 23 now understand to be the current version -- 24 MR. ROTH: Right. 25 MS. STEINER: -- of the Policy and</p>
<p style="text-align: right;">Page 43</p> <p>1 Harford County? 2 A. No, I didn't. 3 Q. Can you tell me when is the first 4 time that you had responsibility for acquiring 5 medications or anesthetic agents that were going 6 to be delivered to patients? 7 A. When I started Harford County 8 Ambulatory, or Box Hill Surgery Center, sorry. 9 Q. Okay. And, let me, before getting 10 into that, I just want to ask you some technical 11 questions about your corporations. 12 A. Uh-huh. 13 Q. Who are the, other than yourself, 14 are there any owners or shareholders in Ritu 15 Bhambhani, M.D., LLC? 16 A. No, it is a sole owner. 17 Q. Okay. And, and who owns Box Hill 18 Surgical Center? 19 A. Ritu Bhambhani sole owner. 20 Q. And is it Ritu Bhambhani M.D. or 21 Ritu Bhambhani LL -- 22 A. Ritu Bhambhani, the individual, yes. 23 Q. Okay. Other than Box Hill and Ritu 24 Bhambhani, LLC, do you, the individual, have any 25 ownership interest in any other surgical center?</p>	<p style="text-align: right;">Page 45</p> <p>1 Procedure Manual. 2 MR. ROTH: Right. And because there 3 is no table of contents in either one of 4 them, scrambling through it was a little 5 challenging to find the same pages. 6 MS. STEINER: They are largely 7 alphabetical if that helps. 8 MR. ROTH: Okay. Let's mark this 9 as, we will mark this as 1056. 10 MS. STEINER: I have put that page 11 in front of her. 12 MR. ROTH: And after the deposition, 13 I can get you copies of what is in a binder, 14 because I didn't have that copied. 15 MS. STEINER: We can make you a copy 16 later if you'd like. Page 328. 17 THE VIDEOGRAPHER: Off the record. 18 MR. ROTH: I can tell you that the 19 productions. Off the video, it doesn't 20 matter, I was going to say with the 21 productions with the different exhibits and 22 tabs, took me a while to sort of reconstruct 23 what you were doing there, what was produced 24 and when. 25 I'm sure that was not to fool the</p>



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<p style="text-align: right;">Page 46</p> <p>1 easily confused. This one you can mark.</p> <p>2 Thank you.</p> <p>3 (Exhibit Number 1056</p> <p>4 marked for identification.)</p> <p>5 MS. STEINER: Exhibit 1056 which is</p> <p>6 the organizational chart.</p> <p>7 MR. ROTH: Right.</p> <p>8 MS. STEINER: Page 328 is now in</p> <p>9 front of her.</p> <p>10 BY MR. ROTH:</p> <p>11 Q. Thank you. So, as your counsel</p> <p>12 pointed out, this was produced to us as in the</p> <p>13 original production of your Policy and Procedure</p> <p>14 Manual.</p> <p>15 We know that there is a, this was in</p> <p>16 the group that is current.</p> <p>17 My question before I go look for the</p> <p>18 other, the original is, has this changed since</p> <p>19 2008?</p> <p>20 MS. STEINER: I have to get you the</p> <p>21 page number. I think it is in both</p> <p>22 productions identically.</p> <p>23 THE WITNESS: No, everything on this</p> <p>24 is the same as what it was in 2008.</p> <p>25 BY MR. ROTH:</p>	<p style="text-align: right;">Page 48</p> <p>1 out by stating it, I don't think. I think</p> <p>2 you are looking for job descriptions then of</p> <p>3 the Medical Director.</p> <p>4 MR. KIRBY: So we are clear, the</p> <p>5 e-mail that forwarded on the production</p> <p>6 described it as here is the policy, you know,</p> <p>7 what is in the Policy and Procedure Manual.</p> <p>8 MS. STEINER: Okay. So that we are</p> <p>9 all clear at this point, in the original</p> <p>10 production beginning at Page 298 is the</p> <p>11 beginning of the Policy and Procedure Manual</p> <p>12 which continues through Page 591.</p> <p>13 That is the current version.</p> <p>14 MR. ROTH: And when you say</p> <p>15 original, you mean current version. Okay.</p> <p>16 MS. STEINER: Current version. In</p> <p>17 the supplemental production that we have</p> <p>18 produced the other day, the Policy and</p> <p>19 Procedure Manual begins at page.</p> <p>20 MR. ROTH: 616 is where I have it.</p> <p>21 MS. STEINER: That's correct. And</p> <p>22 then there were some additional pages,</p> <p>23 specifically 588 A through E which we then</p> <p>24 realized had been for whatever reason omitted</p> <p>25 from the copying of the current version, and</p>
<p style="text-align: right;">Page 47</p> <p>1 Q. Okay. And you are identified here,</p> <p>2 Ritu Bhambhani is identified as the CEO and then</p> <p>3 there is an arrow up, and, as the Medical</p> <p>4 Director, and then as the CEO and the</p> <p>5 Administrative Manager.</p> <p>6 A. Uh-huh.</p> <p>7 Q. And, now you have said before you</p> <p>8 respond to my question about the responsibilities</p> <p>9 of the Medical Director, that you would want to</p> <p>10 see the Policy and Procedure Manual?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Okay.</p> <p>13 MR. KIRBY: I've got it.</p> <p>14 MR. ROTH: That is the chart. Do</p> <p>15 you have the page for the Policy and</p> <p>16 Procedure Manual that describes what the</p> <p>17 Medical Director is.</p> <p>18 MS. STEINER: Bear with me.</p> <p>19 MR. KIRBY: You don't want the org</p> <p>20 chart.</p> <p>21 MR. ROTH: She has got it.</p> <p>22 MS. HOUSTON: I don't think anything</p> <p>23 was ever identified as quote the Policy and</p> <p>24 Procedure Manual. They gave us a lot of</p> <p>25 pages, but nothing that said, that started</p>	<p style="text-align: right;">Page 49</p> <p>1 so 588 A through E are the 2015 version, or</p> <p>2 actually, it would have been reviewed at the</p> <p>3 end of 2014, version of the Informed Consent</p> <p>4 Policies and Practices.</p> <p>5 But, the Policy and Procedure Manual</p> <p>6 is 616 to 920 for the 2012 version.</p> <p>7 Let me put it in front of you in</p> <p>8 case you can find the, what you are referring</p> <p>9 to as the portion regarding the Medical</p> <p>10 Director in the Policy and Procedure Manual.</p> <p>11 Can we go off the record.</p> <p>12 MR. ROTH: Sure.</p> <p>13 THE VIDEOGRAPHER: Off the record at</p> <p>14 10:56.</p> <p>15 (Recess taken -- 10:56 a.m.)</p> <p>16 (After recess -- 11:02 a.m.)</p> <p>17 THE VIDEOGRAPHER: On the record at</p> <p>18 11:02. This is Video 2.</p> <p>19 BY MR. ROTH:</p> <p>20 Q. Let me, before I ask you this</p> <p>21 question about the Medical Director</p> <p>22 responsibilities, off the record when you were</p> <p>23 downstairs I showed her, I showed Dr. Bhambhani</p> <p>24 the, my copy of the Policy and Procedure Manual</p> <p>25 that was in place in 2012.</p>



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<p style="text-align: right;">Page 62</p> <p>1 whether this is a past tense or present tense</p> <p>2 question, and if it is changed you will let</p> <p>3 me know.</p> <p>4 BY MR. ROTH:</p> <p>5 Q. But, you know, as a physician</p> <p>6 administering medications to patients, is it your</p> <p>7 responsibility to understand the benefits and</p> <p>8 risks of these medications?</p> <p>9 MS. STEINER: Objection as to form</p> <p>10 and foundation. You can answer.</p> <p>11 THE WITNESS: So, again in general,</p> <p>12 do I weigh the potential risks and benefits</p> <p>13 of two or more than two medications that</p> <p>14 might be available for one issue before I</p> <p>15 choose to recommend one?</p> <p>16 BY MR. ROTH:</p> <p>17 Q. Right. I mean I'm asking if that is</p> <p>18 your --</p> <p>19 A. Do I weigh the risks and benefits?</p> <p>20 Yes.</p> <p>21 Q. I guess my question is, as a pain</p> <p>22 management physician, is that one of your</p> <p>23 responsibilities?</p> <p>24 MS. STEINER: Objection as to form.</p> <p>25 You can answer.</p>	<p style="text-align: right;">Page 64</p> <p>1 Q. And that wasn't my question. I</p> <p>2 mean, my question is whether or not it is, you</p> <p>3 would agree it is your responsibility to be</p> <p>4 current in developments related to the delivery</p> <p>5 of anesthesia or practice of pain management</p> <p>6 medicine.</p> <p>7 MS. STEINER: Objection as to form</p> <p>8 and foundation. You can answer.</p> <p>9 THE WITNESS: Again, the best that I</p> <p>10 know as part of my board certification,</p> <p>11 ongoing recertification requirements, as part</p> <p>12 of my Maryland state licensure, the</p> <p>13 requirements are the CME requirements.</p> <p>14 I'm not sure when you say</p> <p>15 responsibility, what else you mean.</p> <p>16 BY MR. ROTH:</p> <p>17 Q. Well, I'm trying to understand.</p> <p>18 What I guess I mean is aside from having minimum</p> <p>19 requirements for CME and licensure, how do you,</p> <p>20 do you think you have a responsibility as a</p> <p>21 physician to keep current on developments in your</p> <p>22 medical specialties?</p> <p>23 MS. STEINER: Objection as to form</p> <p>24 and foundation.</p> <p>25 You can answer.</p>
<p style="text-align: right;">Page 63</p> <p>1 THE WITNESS: If I'm understanding</p> <p>2 it correctly, then yes. Do I weigh the risks</p> <p>3 again as the potential benefits of different</p> <p>4 options, not just in medication, but</p> <p>5 different treatment options in general?</p> <p>6 BY MR. ROTH:</p> <p>7 Q. Yes.</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And is it your responsibility</p> <p>10 to keep current on literature and information</p> <p>11 about these different medical options?</p> <p>12 MS. STEINER: Objection as to form,</p> <p>13 foundation and the over breadth of the</p> <p>14 question.</p> <p>15 THE WITNESS: I'm not sure what keep</p> <p>16 current would mean.</p> <p>17 BY MR. ROTH:</p> <p>18 Q. Do you read peer reviewed literature</p> <p>19 that describes the treatments that you offer as a</p> <p>20 pain management physician?</p> <p>21 A. So, I subscribe to newsletters, I</p> <p>22 satisfy my CME requirements related to my field</p> <p>23 both anesthesia and pain management. Am I able</p> <p>24 to look at every single article published on it?</p> <p>25 Probably not.</p>	<p style="text-align: right;">Page 65</p> <p>1 THE WITNESS: As I said before, in</p> <p>2 terms of keeping current, I do subscribe to</p> <p>3 newsletters, I am doing ongoing, I say CME,</p> <p>4 but, you know, CME activities usually require</p> <p>5 reviewing the CME material which pertains to</p> <p>6 clinical care, on an ongoing basis. And I do</p> <p>7 that.</p> <p>8 BY MR. ROTH:</p> <p>9 Q. When you started Box Hill in 2008 --</p> <p>10 A. Uh-huh.</p> <p>11 Q. And you were the person who came,</p> <p>12 became responsible for deciding what drugs to</p> <p>13 order, not from where, but what drugs to order,</p> <p>14 did you go through any process to determine with</p> <p>15 respect to epidural, drugs you would use for</p> <p>16 epidural injections, what steroids to purchase?</p> <p>17 A. I, I think I mentioned earlier I had</p> <p>18 already been doing pain management at Harford</p> <p>19 County for a few years prior to starting my</p> <p>20 practice. And then starting Box Hill.</p> <p>21 I used the same medications that I</p> <p>22 was using already at Harford County.</p> <p>23 Q. Okay. What does a physician need to</p> <p>24 know about the medication they are administering</p> <p>25 before they give it to their patient?</p>